

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

AFFYMETRIX, INC.,

Plaintiff/Counter-
Defendant,

v.

ILLUMINA, INC.,

Defendant/Counter-
Plaintiff.

C.A. No. 04-901-JJF

**[PROPOSED] ORDER DISMISSING CERTAIN CAUSES OF
ACTION RELATING TO U.S. PATENT NO. 6,607,887**

The parties, by and through their respective counsel, hereby stipulate to the dismissal of the following counts relating to U.S. Patent No. 6,607,887 (the “‘887 patent”) from the above-captioned action.

1. Count 5 of Affymetrix’s Complaint for infringement of the ‘887 patent with prejudice; and
2. Count V of Illumina’s First Amended Answer and Counterclaims for declaratory judgment of non-infringement, invalidity, and unenforceability of the ‘887 patent without prejudice

IT IS SO STIPULATED.

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IT IS SO ORDERED.

Date

United States District Court Judge